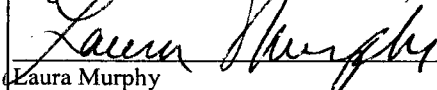


IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD

I hereby certify that this MOTION TO COMPEL DISCOVERY is being deposited with the United States Postal Service with sufficient postage as First-Class mail in an envelope addressed to: Commissioner for Trademarks, P.O. Box 1451, Alexandria, Virginia 22313-1451 on November 19, 2004.


Laura Murphy

In re Serial No. 75-938,128

AMAZON.COM, INC.
1200 12th Avenue South, Suite 1200
Seattle, Washington 98144,

Opposer,

v.

VON ERIC LERNER KALAYDJIAN
4226 Scandia Way
Los Angeles, California 90065,

Applicant.

Opposition No. 91,122,000



11-22-2004

U.S. Patent & TMO/TM Mail Rcpt Dt. #66

BOX TTAB NO FEE
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

MOTION TO COMPEL DISCOVERY

Petitioner in the position of the Plaintiff, Amazon.com, Inc. ("Amazon.com"), for its Motion to Compel Discovery, states and alleges as follows:

1. On July 1, 2004, Amazon.com served its First Set of Interrogatories and First Set of Requests for Admission, consisting of 41 requests for admission, on the Respondent in the position of the Defendant, Von Eric Lerner Kalaydjian, pursuant to the Federal Rules of Civil

Procedure and the Trademark Rules of Practice. Amazon.com's First Set of Interrogatories consisted of the following Interrogatory No. 1:

To the extent YOUR response to any of the Requests for Admission set forth in the accompanying Opposer's First Set of Requests for Admission to Applicant is anything other than an unqualified admission, please (i) state all facts upon which YOUR refusal to admit is based; (ii) IDENTIFY all PERSONS with knowledge of any such facts; and (iii) IDENTIFY all DOCUMENTS that support YOUR refusal to admit.

True and correct copies of Amazon.com's First Sets of Requests for Admission and Interrogatories are attached to the accompanying Silbert Declaration, respectively as Exhibits A and B. In accordance with 37 C.F.R. § 2.120(a) and Federal Rules of Civil Procedure 33 and 36, Respondent's responses to Petitioner's Interrogatory No. 1 and First Set of Requests for Admission were due July 31, 2004.

2. On July 7, 2004, Respondent wrote to counsel for Amazon.com, asserting that the Federal Rules of Civil Procedure do not apply to actions before the Trademark Trial and Appeals Board ("TTAB"). Respondent further denied that he had "the burden of answering my admissions or interrogatories." Silbert Declaration, Exhibit C.

3. In a letter dated July 20, 2004, counsel for Amazon.com informed Respondent that he was required to serve responses to Amazon.com's discovery by July 31, 2004 and that failure to answer Requests for Admissions by that date would cause such Requests for Admission to be deemed admitted. Silbert Declaration, Exhibit D.

4. On July 22, 2004, Respondent served a "Response" to Amazon.com's First Sets of Requests for Admission and Interrogatories. This document consisted solely of a general objection (on grounds of untimeliness) and the demand that "THE TTAB . . . THROW OUT THIS OBSURD [sic] AND PROPOSTEROUS [sic] OPPOSITION AND . . . FULFILL THE COSMETICSAMAZON MARKS REGISTRATION." Silbert Declaration, Exhibit E.

5. In a letter dated August 2, 2004, counsel for Amazon.com again advised Respondent of his obligation to serve complete responses to Amazon.com's First Sets of Requests for Admission and Interrogatories, and made a final request that Respondent promptly do so. Silbert Declaration, Exhibit F.

6. On August 5, 2004, Respondent served a Second Response to Amazon.com's First Set of Requests for Admission. Respondent failed to provide unqualified admissions to 34 out of 41 of the Requests for Admission. Nonetheless, Respondent did not answer Amazon.com's Interrogatory No. 1. Silbert Declaration, Exhibit G.

7. In a letter dated August 23, 2004, counsel for Amazon.com informed Respondent that he must answer Amazon.com's Interrogatory No. 1 by: (1) stating all facts upon which Respondent based his refusal to provide an unqualified admission to 34 out of Amazon.com's 41 Requests for Admission; (2) identifying all persons with knowledge of any such facts; and (3) identifying all documents that support Respondent's refusal to provide unqualified admissions. Silbert Declaration, Exhibit H.

8. On August 23, 2004, Respondent sent an email to counsel for Amazon.com stating:

it is clear that you are DESPERATE. you dont have a win. you cant possibly win opposition so your JUST using acts of desperation to try to get me to admit to ridiculous admissions. well your tacticts are only having amazon.com spend a terrible amount of money it is merely throwing away. THIS IS EQUIVALENT TO A BOXING MATCH. YOUR JABBING AND JABBING AND JABBING AND IN THE 7TH ROUND YOUR GOING TO GET KNOCKED OUT. I GUESS THATS ALLRIGHT WE ALL HAVE A PIECE OF THE MONEY PURSE. BEST REGARDS VELK

Silbert Declaration, Exhibit I.

9. On August 23, 2004, Respondent sent a second email to counsel for Amazon.com stating:

IT IS CLEAR TO ME AND ANY IDIOT THAT COSMETICSAMAZON
AND AMAZON.COM ARE DIFFERENT IN SOUND SIGHT AND
PERCEPTION OF ANY CONSUMERS MIND AND THAT I VON ERIC
LERNER
KALAYDJIAN WILL NOT BE SENDING YOU ANY MORE
LITERATURE.
IFF YOU FEEL YOU NEED TO TRY TO COMPELL THEN DO SO.
I AM NOT ANSWERING ANY MORE REDICULOUS QUESTIONS.
BEST REGARDS
VELK

Silbert Declaration, Exhibit J.

10. As of November 19, 2004, Respondent has not answered Amazon.com's Interrogatory No. 1. Thus, although Petitioner made a good faith effort to resolve the matter, Respondent has continued to ignore his discovery obligations. Respondent's failure to provide discovery is without substantial justification.

11. Petitioner propounded and served Interrogatory No. 1 upon Respondent in good faith. Petitioner's Interrogatory No. 1 is not burdensome, and the information sought therein is essential to preparation for and prosecution of this cause of action.

12. The discovery period in above-captioned cause is currently set to close on November 30, 2004. Petitioner's testimony period is set to open January 30, 2005.

BRIEF IN SUPPORT

Although Respondent was required to answer the Petitioner's Interrogatory No. 1 on or before July 31, 2004, Respondent repeatedly has failed and refused, without justification, to answer the interrogatory as required by Rule 33 of the Federal Rules of Civil Procedure as applicable through Rule 2.120 of the Trademark Rules of Practice.

Rule 2.120(e) of the Trademark Rules of Practice provides that if a party fails to answer any interrogatory, the party seeking discovery may file a motion before the Trademark Trial and Appeal Board for an order to compel an answer.

The Interrogatories were served on Respondent in good faith and the information sought therein is essential to the preparation for trial of this cause.

WHEREFORE, PREMISES CONSIDERED, Petitioner prays for an Order compelling Respondent to answer Interrogatory No. 1, and for all other relief to which it might prove itself entitled.

DATED: November 19, 2004



John C. Rawls
Sarah Silbert
FULBRIGHT & JAWORSKI L.L.P.
Attorneys for Petitioner Amazon.com, Inc.
865 S. Figueroa Street, Floor 29
Los Angeles, California 90017
Telephone: (213) 892-9237
Facsimile: (213) 680-4518

CERTIFICATE OF SERVICE

I, Laura Murphy, hereby certify that I have mailed a true and correct copy of the foregoing MOTION TO COMPEL DISCOVERY, with sufficient postage affixed, on this 19th day of November, 2004, to the Respondent herein at the address 4226 Scandia Way Los Angeles, California 90065-4329.


Laura Murphy

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

I hereby certify that this DECLARATION OF SARAH SILBERT IN SUPPORT OF MOTION TO COMPEL DISCOVERY is being deposited with the United States Postal Service with sufficient postage as First-Class mail in an envelope addressed to: Commissioner for Trademarks, P.O. Box 1451, Alexandria, Virginia 22313-1451 on November 19, 2004


Laura Murphy

In re Serial No. 75-938,128

AMAZON.COM, INC.
1200 12th Avenue South, Suite 1200
Seattle, Washington 98144,

Opposer,

Opposition No. 91,122,000

v.

VON ERIC LERNER KALAYDJIAN
4226 Scandia Way
Los Angeles, California 90065,

Applicant.

BOX TTAB NO FEE
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

**DECLARATION OF SARAH SILBERT IN SUPPORT OF
MOTION TO COMPEL DISCOVERY**

I, Sarah Silbert, declare:

1. I am an attorney duly licensed to practice in the courts of the State of California. I am an associate at Fulbright & Jaworski L.L.P. ("Fulbright"), counsel of record for Amazon.com, Inc. ("Amazon.com") in this action. I have personal knowledge of the facts set forth in this declaration, and if called upon to do so, I could and would competently testify to them.

2. On July 1, 2004, Amazon.com served its First Set of Interrogatories and First Set of Requests for Admission, consisting of 41 requests for admission, on the Respondent in the position of the Defendant, Von Eric Lerner Kalaydjian, pursuant to the Federal Rules of Civil Procedure and the Trademark Rules of Practice. True and correct copies of Amazon.com's First Sets of Requests for Admission and Interrogatories are attached hereto as Exhibits A and B.

3. On July 7, 2004, Respondent wrote to me at the email address <ssilbert@fulbright.com>, asserting that the Federal Rules of Civil Procedure do not apply to actions before the Trademark Trial and Appeals Board ("TTAB"). Respondent further denied that he had "the burden of answering my admissions or interrogatories." A true and correct copy of Respondent's email of July 7, 2004 is attached hereto as Exhibit C.

4. In a letter dated July 20, 2004, sent to Respondent by first class mail and email, I informed Respondent that he was required to serve responses to Amazon.com's discovery by July 31, 2004 and that failure to answer Requests for Admissions by that date would cause such Requests for Admission to be deemed admitted. A true and correct copy of my letter of July 31, 2004 is attached hereto as Exhibit D.

5. On July 22, 2004, Respondent served a "Response" to Amazon.com's First Sets of Requests for Admission and Interrogatories. This document consisted solely of a general objection (on grounds of untimeliness) and the demand that "THE TTAB . . . THROW OUT THIS OBSURD [sic] AND PROPOSTEROUS [sic] OPPOSITION AND . . . FULFILL THE COSMETICSAMAZON MARKS REGISTRATION." A true and correct copy of Respondent's July 22, 2004 "Response" is attached hereto as Exhibit E.

6. In a letter dated August 2, 2004, to Respondent by first class mail and email, I again advised Respondent of his obligation to serve complete responses to Amazon.com's First

Sets of Requests for Admission and Interrogatories, and made a final request that Respondent promptly do so. A true and correct copy of my letter of August 2, 2004, is attached hereto as Exhibit F.

7. On August 5, 2004, Respondent served a Second Response to Amazon.com's First Set of Requests for Admission. Respondent failed to provide unqualified admissions to 34 out of 41 of the Requests for Admission. Nonetheless, Respondent did not answer Amazon.com's Interrogatory No. 1. A true and correct copy of Respondent's Second Response of August 5, 2004 is attached hereto as Exhibit G.

8. In a letter dated August 23, 2004, to Respondent by first class mail and email, I informed Respondent that he must answer Amazon.com's Interrogatory No. 1 by: (1) stating all facts upon which Respondent based his refusal to provide an unqualified admission to 34 out of Amazon.com's 41 Requests for Admission; (2) identifying all persons with knowledge of any such facts; and (3) identifying all documents that support Respondent's refusal to provide unqualified admissions. A true and correct copy of my letter of August 22, 2004 is attached hereto as Exhibit H.

9. On August 23, 2004, Respondent sent an email to me at the email address [<ssilbert@fulbright.com>](mailto:ssilbert@fulbright.com) stating:

it is clear that you are DESPERATE. you dont have a win. you cant possibly win opposition so your JUST using acts of desperation to try to get me to admit to ridiculous admissions.
well your tacticts are only having amazon.com spend a terrible amount of money it is merely throwing away.
THIS IS EQUIVALENT TO A BOXING MATCH. YOUR JABBING AND JABBING AND JABBING AND IN THE 7TH ROUND YOUR GOING TO GET KNOCKED OUT.
I GUESS THATS ALLRIGHT WE ALL HAVE A PIECE OF THE MONEY PURSE.

BEST REGARDS
VELK

Silbert Declaration, Exhibit I.

10. On August 23, 2004, Respondent sent a second email to John C. Rawls, a partner at Fulbright and counsel of record for Amazon.com, at the email address

<jrawls@fulbright.com>, stating:

IT IS CLEAR TO ME AND ANY IDIOT THAT COSMETICSAMAZON
AND AMAZON.COM ARE DIFFERENT IN SOUND SIGHT AND
PERCEPTION OF ANY CONSUMERS MIND AND THAT I VON ERIC
LERNER
KALAYDJIAN WILL NOT BE SENDING YOU ANY MORE
LITERATURE.
IFF YOU FEEL YOU NEED TO TRY TO COMPELL THEN DO SO.
I AM NOT ANSWERING ANY MORE REDICULOUS QUESTIONS.
BEST REGARDS
VELK

A true and correct copy of Respondent's email of August 23, 2004 is attached
hereto as Exhibit J.

11. As of November 19, 2004, Fulbright not received from Respondent a
response to Amazon.com's Interrogatory No. 1.

12. Fulbright, on behalf of Amazon.com, has made a good faith effort by
correspondence to resolve with Respondent the issues presented in Amazon.com's
Motion to Compel Discovery, and has been unable to reach an agreement with
Respondent.

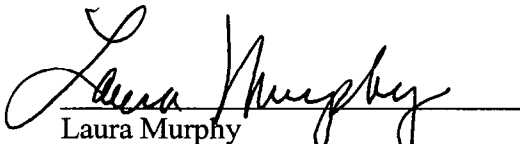
I declare under penalty of perjury under the laws of the United States of America
that the foregoing is true and correct.

Dated: November 19, 2004


Sarah Silbert

CERTIFICATE OF SERVICE

I, Laura Murphy, hereby certify that I have mailed a true and correct copy of the
foregoing DECLARATION OF SARAH SILBERT IN SUPPORT OF MOTION TO COMPEL
DISCOVERY, with sufficient postage affixed, on this 19th day of November, 2004, to the
Respondent herein at the address 4226 Scandia Way, Los Angeles, California 90065-4329.


Laura Murphy

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

AMAZON.COM, INC.
1200 12th Avenue South, Suite 1200
Seattle, Washington 98144,

Opposer,

v.

VON ERIC LERNER KALAYDJIAN
4226 Scandia Way
Los Angeles, California 90065,

Applicant.

Opposition No.122,000

OPPOSER'S FIRST SET OF REQUESTS FOR ADMISSION TO APPLICANT

Pursuant to Rule 2.120 of the Trademark Rules of Practice and Rule 36 of the Federal Rules of Civil Procedure, Opposer Amazon.com, Inc. ("Amazon.com") serves this First Set of Requests for Admission on Applicant Von Eric Lerner Kalaydjian ("Kalaydjian") and requests Applicant to make the following admissions by July 31, 2004.

DEFINITIONS AND INSTRUCTIONS

1. “AMAZON.COM” shall mean Amazon.com, Inc. and any of its officers, directors, employees, agents, representatives or anyone acting or purporting to act on their behalf.
2. “YOU” and “YOUR” shall mean Von Eric Lerner Kalaydjian and/or Amazon Cosmetics and Tan Products and any of their officers, directors, employees, partners, corporate parents, subsidiaries, affiliates, agents, representatives or anyone acting or purporting to act on their behalf.
3. “AMAZON.COM MARKS” shall mean and include trademark registration numbers 2167345, 2078496 and 2078494.
4. As used herein, the singular shall be construed to include the plural, and vice versa, as necessary to give these discovery requests their broadest possible meaning.
5. As used herein, the connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
6. The information sought in these written discovery requests is that which is current to the date of responses thereto; these written discovery requests shall be deemed continuing so that with respect to any particular request as to which defendant, after answering, acquires additional or different knowledge or information, Amazon.com requests that defendant, pursuant to F. R. Civ. P. 26(e) serve supplemental answers within twenty (20) days after acquiring such additional or different knowledge or information.

REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 1:

Please admit that YOU were aware of the existence of one or more of the AMAZON.COM MARKS at the time YOU filed an application with the United States Patent and Trademark Office to register the term "COSMETICSAMAZON" as a trademark.

REQUEST FOR ADMISSION NO. 2:

Please admit that YOU were aware of the existence of one or more of the AMAZON.COM MARKS at the time YOU first used the name COSMETICSAMAZON in commerce.

REQUEST FOR ADMISSION NO. 3:

Please admit that the AMAZON.COM[®] name and mark and logos incorporating that term are fanciful marks.

REQUEST FOR ADMISSION NO. 4:

Please admit that each of the AMAZON.COM[®] name and mark and logos incorporating that term are valid trademarks.

REQUEST FOR ADMISSION NO. 5:

Please admit that AMAZON.COM's trademark registration no. 2167345 for the AMAZON.COM[®] mark is valid.

REQUEST FOR ADMISSION NO. 6:

Please admit that AMAZON.COM's trademark registration no. 2078496 for the AMAZON.COM[®] mark is valid.

REQUEST FOR ADMISSION NO. 7:

Please admit that AMAZON.COM's trademark registration no. 2078494 for the AMAZON.COM BOOKS[®] mark is valid.

REQUEST FOR ADMISSION NO. 8:

Please admit that AMAZON.COM's trademark registration no. 2837138 for the AMAZON.COM BOOKS® mark is valid.

REQUEST FOR ADMISSION NO. 9:

Please admit that the AMAZON.COM MARKS became valid trademarks before YOU filed an application with the United States Patent and Trademark Office to register the name "COSMETICSAMAZON" as a trademark.

REQUEST FOR ADMISSION NO. 10:

Please admit that AMAZON.COM's trademark registration no. 2167345 for the AMAZON.COM® mark became a valid trademark before YOU filed an application with the United States Patent and Trademark Office to register the name "COSMETICSAMAZON" as a trademark.

REQUEST FOR ADMISSION NO. 11:

Please admit that AMAZON.COM's trademark registration no. 2078496 for the AMAZON.COM® mark became a valid trademark before YOU filed an application with the United States Patent and Trademark Office to register the name "COSMETICSAMAZON" as a trademark.

REQUEST FOR ADMISSION NO. 12:

Please admit that AMAZON.COM's trademark registration no. 2078494 for the AMAZON.COM BOOKS® mark became a valid trademark before YOU filed an application with the United States Patent and Trademark Office to register the name "COSMETICSAMAZON" as a trademark.

REQUEST FOR ADMISSION NO. 13:

Please admit that the AMAZON.COM MARKS became valid trademarks before YOU first used the name COSMETICSAMAZON in commerce.

REQUEST FOR ADMISSION NO. 14:

Please admit that AMAZON.COM's trademark registration no. 2167345 for the AMAZON.COM[®] mark became a valid trademark before YOU first used the name COSMETICSAMAZON in commerce.

REQUEST FOR ADMISSION NO. 15:

Please admit that AMAZON.COM's trademark registration no. 2078496 for the AMAZON.COM[®] mark became a valid trademark before YOU first used the name COSMETICSAMAZON in commerce.

REQUEST FOR ADMISSION NO. 16:

Please admit that AMAZON.COM's trademark registration no. 2078494 for the AMAZON.COM BOOKS[®] mark became a valid trademark before YOU first used the name COSMETICSAMAZON in commerce.

REQUEST FOR ADMISSION NO. 17:

Please admit that the AMAZON.COM[®] name and mark and logos incorporating that term are "famous" within the meaning of the Federal Trademark Dilution Act, 15 U.S.C. § 1125(c).

REQUEST FOR ADMISSION NO. 18:

Please admit that the AMAZON.COM MARKS became "famous" within the meaning of the Federal Trademark Dilution Act, 15 U.S.C. § 1125(c) before YOU filed an application with the United States Patent and Trademark Office to register the name "COSMETICSAMAZON" as a trademark.

REQUEST FOR ADMISSION NO. 19:

Please admit that the AMAZON.COM MARKS became “famous” within the meaning of the Federal Trademark Dilution Act, 15 U.S.C. § 1125(c), before YOU first used the name COSMETICSAMAZON in commerce.

REQUEST FOR ADMISSION NO. 20:

Please admit that the name “COSMETICSAMAZON” is substantially similar to the AMAZON.COM[®] name and mark and logos incorporating that term.

REQUEST FOR ADMISSION NO. 21:

Please admit that YOU selected the COSMETICSAMAZON with the intent to benefit from the goodwill associated with Amazon.com and the AMAZON.COM MARKS.

REQUEST FOR ADMISSION NO. 22:

Please admit that YOU selected the COSMETICSAMAZON name with knowledge that YOUR customers would recognize the similarity to the AMAZON.COM MARKS.

REQUEST FOR ADMISSION NO. 23:

Please admit that consumers seeing the COSMETICSAMAZON mark and the AMAZON.COM[®] name and mark and logos incorporating that term are likely to believe that there is some affiliation, connection or association between the COSMETICSAMAZON marks and the AMAZON.COM[®] name and mark and logos incorporating that term, or the goods and services offered thereunder.

REQUEST FOR ADMISSION NO. 24:

Please admit that consumers seeing the COSMETICSAMAZON mark and the AMAZON.COM[®] name and mark and logos incorporating that term are likely to believe that goods and services offered under the COSMETICSAMAZON mark originate from or are sponsored or approved by Amazon.com.

REQUEST FOR ADMISSION NO. 25:

Please admit that YOU have used the name COSMETICSAMAZON in a manner that creates a likelihood of confusion among an appreciable number of ordinarily prudent consumers as to YOUR association with, or sponsorship or endorsement by AMAZON.COM.

REQUEST FOR ADMISSION NO. 26:

Please admit that YOU are have used the name COSMETICSAMAZON in a manner that creates a likelihood of deception among an appreciable number of ordinarily prudent consumers as to YOUR association with, or sponsorship or endorsement by AMAZON.COM.

REQUEST FOR ADMISSION NO. 27:

Please admit that YOU are have used the name COSMETICSAMAZON in a manner that creates a likelihood of mistake among an appreciable number of ordinarily prudent consumers as to YOUR association with, or sponsorship or endorsement by AMAZON.COM.

REQUEST FOR ADMISSION NO. 28:

Please admit that the name COSMETICSAMAZON is likely to give rise to the mistaken belief by members of the public that YOUR services originate from or are in some way associated with AMAZON.COM, the AMAZON.COM® name and mark and logos incorporating that term and/or the goods and services that AMAZON.COM offers under the AMAZON.COM MARKS.

REQUEST FOR ADMISSION NO. 29:

Please admit that the name COSMETICSAMAZON is likely to cause members of the public to be confused and deceived as to the source, origin, affiliation and sponsorship of YOUR product offered under the name COSMETICSAMAZON.

REQUEST FOR ADMISSION NO. 30:

Please admit that YOUR use of the name COSMETICSAMAZON caused or causes consumers who hear or read that name to think of Amazon.com.

REQUEST FOR ADMISSION NO. 31:

Please admit that YOUR use of the name COSMETICSAMAZON will damage the existing good will and reputation associated with the AMAZON.COM MARKS.

REQUEST FOR ADMISSION NO. 32:

Please admit that YOUR use of the name COSMETICSAMAZON is likely to cause dilution of a distinctive quality of the AMAZON.COM MARKS.

REQUEST FOR ADMISSION NO. 33:

Please admit that YOUR use of the name COSMETICSAMAZON is likely to lessen the capacity of the AMAZON.COM MARKS to identify and distinguish goods and services.

REQUEST FOR ADMISSION NO. 34:

Please admit that, no later than February 2, 2001, YOU were informed by Amazon.com that YOUR use of the name COSMETICSAMAZON had created and would continue to create confusion among consumers that YOUR product sold under that name is affiliated with or sponsored by Amazon.com.

REQUEST FOR ADMISSION NO. 35:

Please admit that YOU plan to use the name COSMETICSAMAZON to identify a product offered for sale to the public.

REQUEST FOR ADMISSION NO. 36:

Please admit that the AMAZON.COM MARKS are held in high regard by consumers.

REQUEST FOR ADMISSION NO. 37:

Please admit that YOU plan to sell a product or products under the name COSMETICSAMAZON throughout the United States.

REQUEST FOR ADMISSION NO. 38:

Please admit that YOU plan to advertise a product or products under the name COSMETICSAMAZON throughout the United States.

REQUEST FOR ADMISSION NO. 39:

Please admit that YOU did not consult an attorney before filing an application with the United States Office of Patents and Trademarks for registration of "COSMETICSAMAZON" as a trademark.

REQUEST FOR ADMISSION NO. 40:

Please admit that YOU were aware of the existence of AMAZON.COM on or before March 8, 2000.

REQUEST FOR ADMISSION NO. 41:

Please admit that YOU were aware of the existence of the AMAZON.COM MARKS on or before March 8, 2000.

REQUEST FOR ADMISSION NO. 42:

Please admit that YOU were aware of the existence of the Web site operated from the Internet domain <amazon.com> on or before March 8, 2000.

DATED: July 1, 2004

FULBRIGHT & JAWORSKI L.L.P.



John C. Rawls
Sarah Silbert
Attorneys for Opposer
AMAZON.COM, INC.

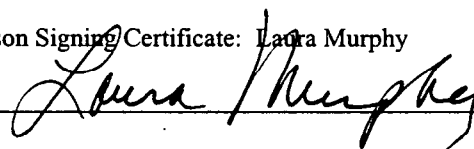
Certificate of Mailing by Overnight Courier

"Federal Express" Tracking Number: 790687345628

Date of Deposit: July 1, 2004

I hereby certify that this correspondence is being deposited with Federal Express with sufficient postage on the date indicated above and is addressed to: Von Eric Lerner Kalaydjian, 4226 Scandia Way, Los Angeles, California 90065-4329.

Name of Person Signing Certificate: Laura Murphy

Signature: 

Date of Signing: July 1, 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

AMAZON.COM, INC.
1200 12th Avenue South, Suite 1200
Seattle, Washington 98144,

Opposer,

v.

VON ERIC LERNER KALAYDJIAN
4226 Scandia Way
Los Angeles, California 90065,

Applicant.

Opposition No.122,000

OPPOSER'S FIRST SET OF INTERROGATORIES TO APPLICANT

Pursuant to Rule 2.120 of the Trademark Rules of Practice and Rule 33 of the Federal Rules of Civil Procedure, Opposer Amazon.com, Inc. ("Amazon.com") hereby requests that Applicant Von Eric Lerner Kalaydjian answer separately and completely by July 31, 2004. This interrogatory is continuing in nature, such that if at any time after service of the answers to it, and prior to entry of final judgment in this action, Applicant obtains or learns of additional responsive information, Applicant shall supplement his answers.

For the convenience of the Trademark Trial and Appeals Board and the parties, Opposer requests that the interrogatory be quoted in full immediately preceding the response.

DEFINITIONS AND INSTRUCTIONS

1. "YOU" and "YOUR" shall mean Von Eric Lerner Kalaydjian and/or Amazon Cosmetics and Tan Products and any of their officers, directors, employees, partners, corporate parents, subsidiaries, affiliates, agents, representatives or anyone acting or purporting to act on their behalf.

2. "PERSON" shall mean any natural person or entity or any business or legal entity or association.

3. "ENTITY" shall mean any company, corporation, partnership, union, joint venture, sole proprietorship, association, government agency, organization or any other similar type of group through which business is conducted, or any director, officer, employee or agent thereof.

4. "DOCUMENT" is defined to be synonymous in meaning and equal in scope to the usage of the term in Rule 34(a) of the Federal Rules of Civil Procedure and includes any information or matter memorialized in any way, however stored, including without limitation: email or other correspondence, transcriptions, tapes, notes from telephone conversation, agreements, contracts, assignments, records, tape recordings (whether or not transcribed), reports, memoranda, studies, summaries, minutes, notes, agenda, drafts, marginalia, bulletins, diaries, calendars, logs, announcements, instructions, charts, manuals, brochures, schedules, computer data (whether maintained in hard copy or electronically and whether text, image, video or sound), telegrams, teletype, phonographic matter, photographs

(whether still or videotape), financial statements, accounting records, work sheets, profit and loss statements, income tax records and returns and any other such documents and tangible things. A draft or non-identical copy is a separate document within the meaning of this term.

5. When referring to a PERSON, to “IDENTIFY” shall mean to give, to the extent known: (i) the person’s full name; (ii) the person’s present or last known address and telephone number; and, when referring to a natural person, (iii) the person’s present or last known position and employer or business affiliation.

6. When referring to an ENTITY, to “IDENTIFY” shall mean to state, to the extent known: (i) its full name; (ii) the type of organization (e.g., limited partnership or corporation); (iii) its address and telephone number; and (iv) the identity of those natural persons who represent such entity and with whom defendant principally has had contact.

7. When referring to DOCUMENTS, to “IDENTIFY” means to state, to the extent known: (i) the type of document (e.g., letter or memorandum); (ii) the general subject matter; (iii) the date of the document; (iv) the author; (v) the addressee; (vi) all recipients; and (vii) its present or last known location or custodian.

8. As used herein, the singular shall be construed to include the plural, and vice versa, as necessary to give these discovery requests their broadest possible meaning.

INTERROGATORIES

INTERROGATORY NO. 1:

INTERROGATORY NO. 1: To the extent YOUR response to any of the Requests for Admission set forth in the accompanying Opposer’s First Set of Requests for Admission to Applicant is anything other than an unqualified admission, please (i) state all facts upon which YOUR refusal to admit is based; (ii) IDENTIFY all PERSONS with knowledge of any such

facts; and (iii) IDENTIFY all DOCUMENTS that support YOUR refusal to admit.

DATED: July 1, 2004

Fulbright & Jaworski L.L.P.



John C. Rawls
Sarah Silbert
Attorneys for Opposer
AMAZON.COM, INC.

Certificate of Mailing by Overnight Courier

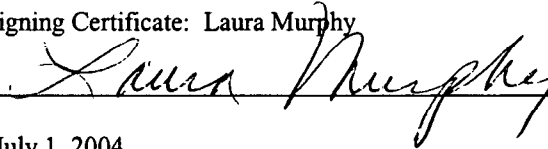
"Federal Express" Tracking Number: 790687345628

Date of Deposit: July 1, 2004

I hereby certify that this correspondence is being deposited with Federal Express with sufficient postage on the date indicated above and is addressed to: Von Eric Lerner Kalaydjian, 4226 Scandia Way, Los Angeles, California 90065-4329.

Name of Person Signing Certificate: Laura Murphy

Signature: _____



Date of Signing: July 1, 2004

Silbert, Sarah

From: KAmazonian@aol.com
Sent: Wednesday, July 07, 2004 1:12 PM
To: Silbert, Sarah
Subject: COSMETICSAMAZON OPPOSITION 91122000

DEAR SARAH SILBERT AND AMAZON.COM LEGAL TEAM.

you have sent me 41 requests for admission and 1 set of interrogatories.

please be advised that anything i say can and could be used against me in a

court of law by possibly other business entitys.

RULE 33 of the federal rules of civil procedure do not apply in this opposition.

your client amazon.com withdrew from federal civil litigation with prejudice

therefore i do not believe i have the burden of answering any admissions

or interrogatories and therefore i shall hereby point this out to the

ttab uspto in writing prior to july 31 2004. i shall ask for a speedy

judgement in my favor for cosmeticsamazon.

meanwhile i would again want to respectfully remind amazon.com that

this can all go away by making me a good confidential business offer.

best regards

von eric lerner kalaydjian hope you all had a great july 4th

**Exhibit C- Opp. No. 91,122,000
Amazon.com, Inc. v. Kalaydjian
Offering Pty: Amazon.com, Inc.**

FULBRIGHT & JAWORSKI L.L.P.

A REGISTERED LIMITED LIABILITY PARTNERSHIP
865 SOUTH FIGUEROA STREET, 29TH FLOOR
LOS ANGELES, CALIFORNIA 90017
WWW.FULBRIGHT.COM

SSILBERT@FULBRIGHT.COM
DIRECT DIAL: (213) 892-9288

TELEPHONE: (213) 892-9200
FACSIMILE: (213) 680-4518

Certified Article Number

July 20, 2004

7106 4575 1294 0739 6239

SENDERS RECORD

BY EMAIL AND CERTIFIED MAIL

Von Eric Lerner Kalaydjian
4226 Scandia Way
Los Angeles, California 90065-4329
kamazonian@aol.com

Re: COSMETICSAMAZON Opposition No. 91/122,000

Dear Mr. Kalaydjian:

This will respond to your email of July 7, 2004 concerning Amazon.com's First Sets of Requests for Admissions and Special Interrogatories served on July 1, 2004 in the above-referenced matter.

Please be advised that the Federal Rules of Civil Procedure relating to the service of Special Interrogatories and Requests for Admission govern discovery in trademark oppositions before the Trademark Trial and Appeals Board. *See* 37 CFR § 2.120 (2003). Thus, you must serve responses to Amazon.com's first sets of written discovery by July 31, 2004. Pursuant to Rule 36, any Requests for Admissions to which you fail to respond by that time will be deemed admitted. Fed. R. Civ. P. 36.

Very truly yours,



Sarah Silbert

**Exhibit D- Opp. No. 91,122,000
Amazon.com, Inc. v. Kalaydjian
Offering Pty: Amazon.com, Inc.**

Von Eric Lerner Kalaydjian
July 20, 2004
Page 2

Bcc: Stephen Bishop, Esq.
John C. Rawls, Esq.

IN THE UNITED PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

AMAZON.COM INC
1200 12TH AVENUE SOUTH SUITE 1200
SEATTLE WASHINGTON 98144

OPPOSITION 91122000 JULY 20, 2004

OPPOSER

V.

VON ERIC LERNER KALAYDJIAN
4226 SCANDIA WAY
LOS ANGELES CALIFORNIA 90065

APPLICANT

Response

APPLICANT HEREBY OBJECTS TO 41 REQUESTS OF ADMISSION
AND ALSO OBJECTS TO THE ONE INTERROGATORIES.

OPPOSER IS UNTIMELY (late) IN TRYING TO PERSUE ON
OPPOSITION RULING AGAINST APPLICANT.

APPLICANT HEREBY ASKS THE TTAB TO THROW OUT THIS
OBSURD AND PROPOSTEROUS OPPOSITION AND TO
FULLFILL THE COSMETICSAMAZON MARKS REGISTRATION.
OPPOSER WITHDREW FROM A FEDERAL CIVIL LAWSUIT WITH
PREJUDICE KNOWING FULL WELL THAT APPLICANT WAS USING
THE COSMETICSAMAZON MARK AND AMAZON COSMETICS
AMAZONTAN MARKS. amazon.com vs kalaydjian 2001.

11.2.04 7-22-04

Exhibit E- Opp. No. 91,122,000
Amazon.com, Inc. v. Kalaydjian
Offering Pty: Amazon.com, Inc.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

AMAZON.COM, INC.
1200 12th Avenue South, Suite 1200
Seattle, Washington 98144,

Opposer,

v.

VON ERIC LERNER KALAYDJIAN
4226 Scandia Way
Los Angeles, California 90065,

Applicant.

Opposition No.122,000

OPPOSER'S FIRST SET OF INTERROGATORIES TO APPLICANT

Pursuant to Rule 2.120 of the Trademark Rules of Practice and Rule 33 of the Federal Rules of Civil Procedure, Opposer Amazon.com, Inc. ("Amazon.com") hereby requests that Applicant Von Eric Lerner Kalaydjian answer separately and completely by July 31, 2004. This interrogatory is continuing in nature, such that if at any time after service of the answers to it, and prior to entry of final judgment in this action, Applicant obtains or learns of additional responsive information, Applicant shall supplement his answers.

For the convenience of the Trademark Trial and Appeals Board and the parties, Opposer requests that the interrogatory be quoted in full immediately preceding the response.

DEFINITIONS AND INSTRUCTIONS

1. "YOU" and "YOUR" shall mean Von Eric Lerner Kalaydjian and/or Amazon Cosmetics and Tan Products and any of their officers, directors, employees, partners, corporate parents, subsidiaries, affiliates, agents, representatives or anyone acting or purporting to act on their behalf.
2. "PERSON" shall mean any natural person or entity or any business or legal entity or association.
3. "ENTITY" shall mean any company, corporation, partnership, union, joint venture, sole proprietorship, association, government agency, organization or any other similar type of group through which business is conducted, or any director, officer, employee or agent thereof.
4. "DOCUMENT" is defined to be synonymous in meaning and equal in scope to the usage of the term in Rule 34(a) of the Federal Rules of Civil Procedure and includes any information or matter memorialized in any way, however stored, including without limitation: email or other correspondence, transcriptions, tapes, notes from telephone conversation, agreements, contracts, assignments, records, tape recordings (whether or not transcribed), reports, memoranda, studies, summaries, minutes, notes, agenda, drafts, marginalia, bulletins, diaries, calendars, logs, announcements, instructions, charts, manuals, brochures, schedules, computer data (whether maintained in hard copy or electronically and whether text, image, video or sound), telegrams, teletype, phonographic matter, photographs

(whether still or videotape), financial statements, accounting records, work sheets, profit and loss statements, income tax records and returns and any other such documents and tangible things. A draft or non-identical copy is a separate document within the meaning of this term.

5. When referring to a PERSON, to “IDENTIFY” shall mean to give, to the extent known: (i) the person’s full name; (ii) the person’s present or last known address and telephone number; and, when referring to a natural person, (iii) the person’s present or last known position and employer or business affiliation.

6. When referring to an ENTITY, to “IDENTIFY” shall mean to state, to the extent known: (i) its full name; (ii) the type of organization (e.g., limited partnership or corporation); (iii) its address and telephone number; and (iv) the identity of those natural persons who represent such entity and with whom defendant principally has had contact.

7. When referring to DOCUMENTS, to “IDENTIFY” means to state, to the extent known: (i) the type of document (e.g., letter or memorandum); (ii) the general subject matter; (iii) the date of the document; (iv) the author; (v) the addressee; (vi) all recipients; and (vii) its present or last known location or custodian.

8. As used herein, the singular shall be construed to include the plural, and vice versa, as necessary to give these discovery requests their broadest possible meaning.

INTERROGATORIES

INTERROGATORY NO. 1:

INTERROGATORY NO. 1: To the extent YOUR response to any of the Requests for Admission set forth in the accompanying Opposer’s First Set of Requests for Admission to Appicant is anything other than an unqualified admission, please (i) state all facts upon which YOUR refusal to admit is based; (ii) IDENTIFY all PERSONS with knowledge of any such

facts; and (iii) IDENTIFY all DOCUMENTS that support YOUR refusal to admit.

DATED: July 1, 2004

Fulbright & Jaworski L.L.P.



John C. Rawls

Sarah Silbert

Attorneys for Opposer

AMAZON.COM, INC.

Certificate of Mailing by Overnight Courier

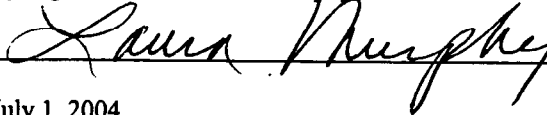
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Name of Person Signing Certificate: Laura Murphy

Signature: _____



Date of Signing: July 1, 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

AMAZON.COM, INC.
1200 12th Avenue South, Suite 1200
Seattle, Washington 98144,

Opposer,

v.

VON ERIC LERNER KALAYDJIAN
4226 Scandia Way
Los Angeles, California 90065,

Applicant.

Opposition No.122,000

OPPOSER'S FIRST SET OF REQUESTS FOR ADMISSION TO APPLICANT

Pursuant to Rule 2.120 of the Trademark Rules of Practice and Rule 36 of the Federal Rules of Civil Procedure, Opposer Amazon.com, Inc. ("Amazon.com") serves this First Set of Requests for Admission on Applicant Von Eric Lerner Kalaydjian ("Kalaydjian") and requests Applicant to make the following admissions by July 31, 2004.

25427614.1

OPPOSER'S FIRST SET OF REQUESTS FOR
ADMISSION - 1

**Exhibit E- Opp. No. 91,122,000
Amazon.com, Inc. v. Kalaydjian
Offering Pty: Amazon.com, Inc.**

DEFINITIONS AND INSTRUCTIONS

1. "AMAZON.COM" shall mean Amazon.com, Inc. and any of its officers, directors, employees, agents, representatives or anyone acting or purporting to act on their behalf.
2. "YOU" and "YOUR" shall mean Von Eric Lerner Kalaydjian and/or Amazon Cosmetics and Tan Products and any of their officers, directors, employees, partners, corporate parents, subsidiaries, affiliates, agents, representatives or anyone acting or purporting to act on their behalf.
3. "AMAZON.COM MARKS" shall mean and include trademark registration numbers 2167345, 2078496 and 2078494.
4. As used herein, the singular shall be construed to include the plural, and vice versa, as necessary to give these discovery requests their broadest possible meaning.
5. As used herein, the connectives "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
6. The information sought in these written discovery requests is that which is current to the date of responses thereto; these written discovery requests shall be deemed continuing so that with respect to any particular request as to which defendant, after answering, acquires additional or different knowledge or information, Amazon.com requests that defendant, pursuant to F. R. Civ. P. 26(e) serve supplemental answers within twenty (20) days after acquiring such additional or different knowledge or information.

REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 1:

Please admit that YOU were aware of the existence of one or more of the AMAZON.COM MARKS at the time YOU filed an application with the United States Patent and Trademark Office to register the term "COSMETICSAMAZON" as a trademark.

REQUEST FOR ADMISSION NO. 2:

Please admit that YOU were aware of the existence of one or more of the AMAZON.COM MARKS at the time YOU first used the name COSMETICSAMAZON in commerce.

REQUEST FOR ADMISSION NO. 3:

Please admit that the AMAZON.COM® name and mark and logos incorporating that term are fanciful marks.

REQUEST FOR ADMISSION NO. 4:

Please admit that each of the AMAZON.COM® name and mark and logos incorporating that term are valid trademarks.

REQUEST FOR ADMISSION NO. 5:

Please admit that AMAZON.COM's trademark registration no. 2167345 for the AMAZON.COM® mark is valid.

REQUEST FOR ADMISSION NO. 6:

Please admit that AMAZON.COM's trademark registration no. 2078496 for the AMAZON.COM® mark is valid.

REQUEST FOR ADMISSION NO. 7:

Please admit that AMAZON.COM's trademark registration no. 2078494 for the AMAZON.COM BOOKS® mark is valid.

REQUEST FOR ADMISSION NO. 8:

Please admit that AMAZON.COM's trademark registration no. 2837138 for the AMAZON.COM BOOKS® mark is valid.

REQUEST FOR ADMISSION NO. 9:

Please admit that the AMAZON.COM MARKS became valid trademarks before YOU filed an application with the United States Patent and Trademark Office to register the name "COSMETICSAMAZON" as a trademark.

REQUEST FOR ADMISSION NO. 10:

Please admit that AMAZON.COM's trademark registration no. 2167345 for the AMAZON.COM® mark became a valid trademark before YOU filed an application with the United States Patent and Trademark Office to register the name "COSMETICSAMAZON" as a trademark.

REQUEST FOR ADMISSION NO. 11:

Please admit that AMAZON.COM's trademark registration no. 2078496 for the AMAZON.COM® mark became a valid trademark before YOU filed an application with the United States Patent and Trademark Office to register the name "COSMETICSAMAZON" as a trademark.

REQUEST FOR ADMISSION NO. 12:

Please admit that AMAZON.COM's trademark registration no. 2078494 for the AMAZON.COM BOOKS® mark became a valid trademark before YOU filed an application with the United States Patent and Trademark Office to register the name "COSMETICSAMAZON" as a trademark.

REQUEST FOR ADMISSION NO. 13:

Please admit that the AMAZON.COM MARKS became valid trademarks before YOU first used the name COSMETICSAMAZON in commerce.

REQUEST FOR ADMISSION NO. 14:

Please admit that AMAZON.COM's trademark registration no. 2167345 for the AMAZON.COM[®] mark became a valid trademark before YOU first used the name COSMETICSAMAZON in commerce.

REQUEST FOR ADMISSION NO. 15:

Please admit that AMAZON.COM's trademark registration no. 2078496 for the AMAZON.COM[®] mark became a valid trademark before YOU first used the name COSMETICSAMAZON in commerce.

REQUEST FOR ADMISSION NO. 16:

Please admit that AMAZON.COM's trademark registration no. 2078494 for the AMAZON.COM BOOKS[®] mark became a valid trademark before YOU first used the name COSMETICSAMAZON in commerce.

REQUEST FOR ADMISSION NO. 17:

Please admit that the AMAZON.COM[®] name and mark and logos incorporating that term are "famous" within the meaning of the Federal Trademark Dilution Act, 15 U.S.C. § 1125(c).

REQUEST FOR ADMISSION NO. 18:

Please admit that the AMAZON.COM MARKS became "famous" within the meaning of the Federal Trademark Dilution Act, 15 U.S.C. § 1125(c) before YOU filed an application with the United States Patent and Trademark Office to register the name "COSMETICSAMAZON" as a trademark.

REQUEST FOR ADMISSION NO. 19:

Please admit that the AMAZON.COM MARKS became “famous” within the meaning of the Federal Trademark Dilution Act, 15 U.S.C. § 1125(c), before YOU first used the name COSMETICSAMAZON in commerce.

REQUEST FOR ADMISSION NO. 20:

Please admit that the name “COSMETICSAMAZON” is substantially similar to the AMAZON.COM® name and mark and logos incorporating that term.

REQUEST FOR ADMISSION NO. 21:

Please admit that YOU selected the COSMETICSAMAZON with the intent to benefit from the goodwill associated with Amazon.com and the AMAZON.COM MARKS.

REQUEST FOR ADMISSION NO. 22:

Please admit that YOU selected the COSMETICSAMAZON name with knowledge that YOUR customers would recognize the similarity to the AMAZON.COM MARKS.

REQUEST FOR ADMISSION NO. 23:

Please admit that consumers seeing the COSMETICSAMAZON mark and the AMAZON.COM® name and mark and logos incorporating that term are likely to believe that there is some affiliation, connection or association between the COSMETICSAMAZON marks and the AMAZON.COM® name and mark and logos incorporating that term, or the goods and services offered thereunder.

REQUEST FOR ADMISSION NO. 24:

Please admit that consumers seeing the COSMETICSAMAZON mark and the AMAZON.COM® name and mark and logos incorporating that term are likely to believe that goods and services offered under the COSMETICSAMAZON mark originate from or are sponsored or approved by Amazon.com.

REQUEST FOR ADMISSION NO. 25:

Please admit that YOU have used the name COSMETICSAMAZON in a manner that creates a likelihood of confusion among an appreciable number of ordinarily prudent consumers as to YOUR association with, or sponsorship or endorsement by AMAZON.COM.

REQUEST FOR ADMISSION NO. 26:

Please admit that YOU are have used the name COSMETICSAMAZON in a manner that creates a likelihood of deception among an appreciable number of ordinarily prudent consumers as to YOUR association with, or sponsorship or endorsement by AMAZON.COM.

REQUEST FOR ADMISSION NO. 27:

Please admit that YOU are have used the name COSMETICSAMAZON in a manner that creates a likelihood of mistake among an appreciable number of ordinarily prudent consumers as to YOUR association with, or sponsorship or endorsement by AMAZON.COM.

REQUEST FOR ADMISSION NO. 28:

Please admit that the name COSMETICSAMAZON is likely to give rise to the mistaken belief by members of the public that YOUR services originate from or are in some way associated with AMAZON.COM, the AMAZON.COM[®] name and mark and logos incorporating that term and/or the goods and services that AMAZON.COM offers under the AMAZON.COM MARKS.

REQUEST FOR ADMISSION NO. 29:

Please admit that the name COSMETICSAMAZON is likely to cause members of the public to be confused and deceived as to the source, origin, affiliation and sponsorship of YOUR product offered under the name COSMETICSAMAZON.

REQUEST FOR ADMISSION NO. 30:

Please admit that YOUR use of the name COSMETICSAMAZON caused or causes consumers who hear or read that name to think of Amazon.com.

REQUEST FOR ADMISSION NO. 31:

Please admit that YOUR use of the name COSMETICSAMAZON will damage the existing good will and reputation associated with the AMAZON.COM MARKS.

REQUEST FOR ADMISSION NO. 32:

Please admit that YOUR use of the name COSMETICSAMAZON is likely to cause dilution of a distinctive quality of the AMAZON.COM MARKS.

REQUEST FOR ADMISSION NO. 33:

Please admit that YOUR use of the name COSMETICSAMAZON is likely to lessen the capacity of the AMAZON.COM MARKS to identify and distinguish goods and services.

REQUEST FOR ADMISSION NO. 34:

Please admit that, no later than February 2, 2001, YOU were informed by Amazon.com that YOUR use of the name COSMETICSAMAZON had created and would continue to create confusion among consumers that YOUR product sold under that name is affiliated with or sponsored by Amazon.com.

REQUEST FOR ADMISSION NO. 35:

Please admit that YOU plan to use the name COSMETICSAMAZON to identify a product offered for sale to the public.

REQUEST FOR ADMISSION NO. 36:

Please admit that the AMAZON.COM MARKS are held in high regard by consumers.

REQUEST FOR ADMISSION NO. 37:

Please admit that YOU plan to sell a product or products under the name COSMETICSAMAZON throughout the United States.

REQUEST FOR ADMISSION NO. 38:

Please admit that YOU plan to advertise a product or products under the name COSMETICSAMAZON throughout the United States.

REQUEST FOR ADMISSION NO. 39:

Please admit that YOU did not consult an attorney before filing an application with the United States Office of Patents and Trademarks for registration of "COSMETICSAMAZON" as a trademark.

REQUEST FOR ADMISSION NO. 40:

Please admit that YOU were aware of the existence of AMAZON.COM on or before March 8, 2000.

REQUEST FOR ADMISSION NO. 41:

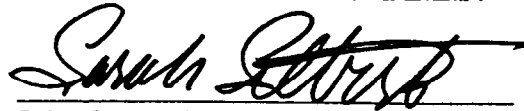
Please admit that YOU were aware of the existence of the AMAZON.COM MARKS on or before March 8, 2000.

REQUEST FOR ADMISSION NO. 42:

Please admit that YOU were aware of the existence of the Web site operated from the Internet domain <amazon.com> on or before March 8, 2000.

DATED: July 1, 2004

FULBRIGHT & JAWORSKI L.L.P.



John C. Rawls
Sarah Silbert
Attorneys for Opposer
AMAZON.COM, INC.

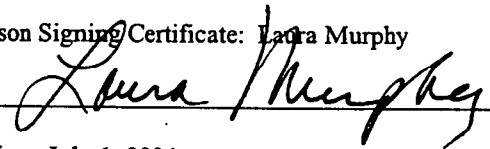
Certificate of Mailing by Overnight Courier

"Federal Express" Tracking Number: 790687345628

Date of Deposit: July 1, 2004

I hereby certify that this correspondence is being deposited with Federal Express with sufficient postage on the date indicated above and is addressed to: Von Eric Lerner Kalaydjian, 4226 Scandia Way, Los Angeles, California 90065-4329.

Name of Person Signing Certificate: Laura Murphy

Signature: 

Date of Signing: July 1, 2004

FULBRIGHT & JAWORSKI L.L.P.

A REGISTERED LIMITED LIABILITY PARTNERSHIP
865 SOUTH FIGUEROA STREET, 29TH FLOOR
LOS ANGELES, CALIFORNIA 90017
WWW.FULBRIGHT.COM

SSILBERT@FULBRIGHT.COM
DIRECT DIAL: (213) 892-9288

TELEPHONE: (213) 892-9200
FACSIMILE: (213) 680-4518

Certified Article Number

7106 4575 1294 0739 7397

SENDERS RECORD

August 2, 2004

BY EMAIL AND CERTIFIED MAIL

Von Eric Lerner Kalaydjian
4226 Scandia Way
Los Angeles, California 90065-4329
kamazonian@aol.com

Re: COSMETICSAMAZON Opposition No. 91/122,000

Dear Mr. Kalaydjian:

This will respond to your email of July 7, 2004 concerning Amazon.com's First Sets of Requests for Admissions and Special Interrogatories served on July 1, 2004 in the above-referenced matter.

Please be advised that the Federal Rules of Civil Procedure relating to the service of Special Interrogatories and Requests for Admission govern discovery in trademark oppositions before the Trademark Trial and Appeals Board. See 37 CFR § 2.120 (2003). Thus, you were required to serve responses to Amazon.com's first sets of written discovery by July 31, 2004. Pursuant to Rule 36, you are deemed to have admitted all of our requests because you failed to deny them by that time. Fed. R. Civ. P. 36.

You appear to believe that no response is required because the Opposition was resolved in the Settlement Agreement that you entered with Amazon.com in 2002. That is not the case. In fact, section 1.8 of the Settlement Agreement specifically gives Amazon.com the right to continue its Opposition to the currently pending trademark application Serial No. 75938128 for COSMETICSAMAZON in International Class 35.

By this letter, we make one final request that you to comply with your discovery obligations. Specifically, we ask that you promptly serve substantive responses to our Requests for Admission, admitting or denying each individual request. Further, to the extent you deny any individual Request for Admission, you must also provide us with a written answer to our Interrogatory No. 1. If you fail to provide these additional responses within ten (10) days of the

**Exhibit F- Opp. No. 91,122,000
Amazon.com, Inc. v. Kalaydjian
Offering Pty: Amazon.com, Inc.**

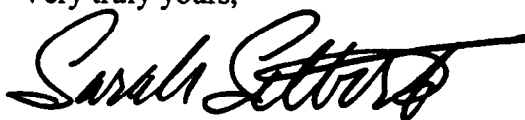
25435194.1

HOUSTON • NEW YORK • WASHINGTON DC • AUSTIN • DALLAS • LOS ANGELES • MINNEAPOLIS • SAN ANTONIO • HONG KONG • LONDON • MUNICH

Von Eric Lerner Kalaydjian
August 2, 2004
Page 2

date of this letter, Amazon.com will move forward with its planned motion for summary judgment, and will rely upon the admissions resulting from your failure to respond to the Request for Admission.

Very truly yours,

A handwritten signature in black ink, appearing to read "Sarah Silbert", with a stylized flourish extending from the end.

Sarah Silbert

**Exhibit F- Opp. No. 91,122,000
Amazon.com, Inc. v. Kalaydjian
Offering Pty: Amazon.com, Inc.**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

AMAZON.COM, INC.
1200 12th Avenue South, Suite 1200
Seattle, Washington 98144,

Opposer,

v.

VON ERIC LERNER KALAYDJIAN
4226 Scandia Way
Los Angeles, California 90065,

Applicant.

9112200
Opposition No. 122,000

SECOND
RESPONSE
TO
ADMISSIONS

RECEIVED

AUG 05 2004

FULBRIGHT & JAWORSKI

Exhibit G - Opp. No. 91,122,000
Amazon.com, Inc. v. Kalaydjian
Offering Pty: Amazon.com, Inc.

amazon.com v von eric lerner kalaydjian opposition 91122000

applicants second response . trademark trial and appeal board

request for admission 1. admit

august 4,2004

request for admission 2. admit

request for admission 3. deny

request for admission 4. cannot admit or deny

request for admission 5. cannot admit or deny

request for admission 6. cannot admit or deny

request for admission 7 cannot admit or deny

request for admission 8 cannot admit or deny

request for admission 9 cannot admit or deny

request for admission 10 cannot admit or deny

request for admission 11. cannot admit or deny

request for admission 12. cannot admit or deny

request for admission 13 cannot admit or deny

request for admission 14 cannot admit or deny

request for admission 15 cannot admit or deny

request for admission 16 cannot admit or deny

request for admission 17 .DENY

request for admission 18 DENY

request for admission 19 DENY,

request for admission 20 cannot admit or deny

request for admission 21 deny

opposition 91122000

| | | |
|-----------------------|-----|-------|
| request for admission | 22. | DENY |
| request for admission | 23. | DENY |
| request for admission | 24 | DENY |
| request for admission | 25 | DENY |
| request for admission | 26 | DENY |
| request for admission | 27 | DENY |
| request for admission | 28 | DENY |
| request for admission | 29 | DENY |
| request for admission | 30 | DENY |
| request for admission | 31 | DENY |
| request for admission | 32 | DENY |
| request for admission | 33 | DENY |
| request for admission | 34. | admit |
| request for admission | 35. | admit |
| request for admission | 36 | deny |
| request for admission | 37 | admit |
| request for admission | 38. | deny |
| request for admission | 39 | admit |
| request for admission | 40 | admit |
| request for admission | 41 | DENY |

FULBRIGHT & JAWORSKI L.L.P.

A REGISTERED LIMITED LIABILITY PARTNERSHIP
865 SOUTH FIGUEROA STREET, 29TH FLOOR
LOS ANGELES, CALIFORNIA 90017
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SSILBERT@FULBRIGHT.COM
DIRECT DIAL: (213) 892-9288

TELEPHONE: (213) 892-9200
FACSIMILE: (213) 680-4518

Certified Article Number

7106 4575 1294 0739 6291

SENDERS RECORD

August 23, 2004

BY EMAIL AND CERTIFIED MAIL

Von Eric Lerner Kalaydjian
4226 Scandia Way
Los Angeles, California 90065-4329
kamazonian@aol.com

Re: COSMETICSAMAZON Opposition No. 91/122,000

Dear Mr. Kalaydjian:

We are in receipt of your Second Response, dated August 4, 2004, to Amazon.com's First Sets of Requests for Admission. In your Second Response, you failed to provide unqualified admissions to 34 out of 41 of the requests.

In light of this, you must answer, but have not answered, Amazon.com's Interrogatory No. 1. That Interrogatory requests that, for each request for admission to which you responded with anything other than "admit," you must: (1) state all facts upon which you base your refusal to provide an unqualified admission; (2) identify all persons with knowledge of any such facts; and (3) identify all documents that support your refusal to admit. If you believe that any of the documents that you have produced support your refusal to admit to one or more of the requests for admission, you must identify the specific documents that you claim support your refusal to deny the specific request or requests for admission.

Your response to Amazon.com's First Set of Interrogatories was due on July 31, 2004. Please be advised that Amazon.com will bring a motion to compel a response to Interrogatory No. 1 if it does not receive a full and complete response within fifteen (15) days of the date of this letter.

Very truly yours,



Sarah Silbert

**Exhibit H- Opp. No. 91,122,000
Amazon.com, Inc. v. Kalaydjian
Offering Pty: Amazon.com, Inc.**

25444857.1

Silbert, Sarah

From: KAmazonian@aol.com
Sent: Monday, August 23, 2004 4:10 PM
To: Silbert, Sarah
Subject: cosmeticsamazon 91122000

dear mr john c rawls and sarah silbert.

it is clear that you are DESPERATE. you dont have a win. you cant possibly win opposition so your JUST using acts of desperation to try to get me to admit to rediculous admitions.

well your tacticts are only having amazon.com spend a terrible amount

of money it is merely throwing away.

THIS IS EQUIVALENT TO A BOXING MATCH. YOUR JABBING AND JABBING AND JABBING AND IN THE 7TH ROUND YOUR GOING TO GET KNOCKED OUT.

I GUESS THATS ALLRIGHT WE ALL HAVE A PIECE OF THE MONEY PURSE.

BEST REGARDS
VELK

Silbert, Sarah

From: KAmazonian@aol.com
Sent: Monday, August 23, 2004 4:58 PM
To: Rawls, John C.
Subject: cosmeticsamazon opposition 91122000

mr john c rawls and sarah silbert.

IT IS CLEAR TO ME AND ANY IDIOT THAT COSMETICSAMAZON
AND AMAZON.COM ARE DIFFERENT IN SOUND SIGHT AND
PERCEPTION OF ANY CONSUMERS MIND AND THAT I VON ERIC LERNER
KALAYDJIAN WILL NOT BE SENDING YOU ANY MORE LITERATURE.
IFF YOU FEEL YOU NEED TO TRY TO COMPELL THEN DO SO.
I AM NOT ANSWERING ANY MORE REDICULOUS QUESTIONS.

BEST REGARDS
VELK